

U.S. Patent Application Serial No. 09/980,329
Applicant: Winder, et al.
Amendment and Response
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REMARKS

This is a full and timely response to the final Office Action mailed January 31, 2005. The Office Action rejected Claims 1-24. The Examiner mailed an Advisory Action on May 17, 2005, and advised that the Assignee's amendments submitted on May 2, 2005 were not entered since new issues had been raised. A Request for Continued Examination (RCE) has been filed concurrently with the present amendment and response. By the present amendment and response, independent claims 1, 11, and 20 have been amended, and claims 1-24 remain pending in the application. The prior rejection of the claims is respectfully traversed by the present response. Since the amended claims are neither taught or suggested by the cited references of the Office Action, all of the pending claims are patentable over the cited art. Consideration of the enclosed amendments and remarks is requested.

I. THE REJECTION UNDER 35 U.S.C. 103(a)

Claims 1-6, 11, 15-21, 23, and 24 were rejected under 35 U.S.C. 103(a) as being obvious over Duarte et al. (USP 5,904,659) in view of Vago (USP 5,665,141) and Unger (USP 6,088,613). Claims 1, 11, and 20 have been amended by the present response to include the limitation or similar limitations, "introducing a capsule comprising a sensor and an ultrasound contrast agent into a patient," and "transmitting a signal to the sensor instructing the capsule to release a portion of the ultrasound contrast agent." The present amendments are based in part on dependent claims 9 and 10. Neither Duarte et al., Vago, or Unger relate to a capsule with a sensor capable of receiving a signal to release a portion of an ultrasound contrast agent. The Office Action describes Unger as relating to "material in the microbubbles is released via

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application of energy over time and therefore considered to be time-released forms of application." While the Office Action concedes that "Unger fails to specifically disclose the treatment time set forth," the Office Action does not address any disclosure or suggestion by Unger (or any other reference) to utilize a capsule with a sensor capable of receiving a signal to release a portion of an ultrasound contrast agent.

Furthermore, the Advisory Action stated that "Applicant failed to specifically address the examiner's statements that in the absence of any showing of criticality, the specific manner in which an agent is released would have been an obvious design choice." Advisory Action, p. 3. By way of example, the Applicants' specification states "[i]t is contemplated that the capsule 108 includes a processor which is programmed by chemical and/or electromagnetic means for releasing the agent(s) 104 at different locations of the body, in preset amounts, at multiple, predetermined time intervals." Page 12, lines 2-5. The various release of agents described by the cited art, such as temperature activated, does not disclose or suggest the degree of control described by the Assignee's specification and recited in the claims, particularly claim 11.

Therefore, for at least the foregoing reasons, the amended claims 1, 11, and 20 should be allowable over the cited art.

Claims 2-10, 12-19, and 21-24 are dependent on at least one of the above amended independent claims for which arguments of patentability have been provided. Therefore if any of the underlying independent claims are allowable, the corresponding dependent claims should also be allowable.

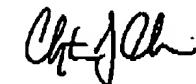
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CONCLUSION

Claims 1, 11, and 20 are amended by the present response. Claims 1-24 remain pending. Claims 1-24 are now in condition for allowance. The Examiner is invited and encouraged to contact the undersigned attorney of record at (404) 815-6048 if such contact will facilitate a Notice of Allowance. If any additional fees are due, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,



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